



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	State Water Control Board
Primary Action: VAC Chapter Number:	9 VAC 25-480-10 et seq.
Regulation Title:	Tennessee and Big Sandy River Basins Water Quality Management Plan
Action Title:	Tennessee and Big Sandy River Basins WQMP Repeal
Secondary Action: VAC Chapter Number and Regulation Title	9 VAC 25-510 Water Quality Management Plan for the Southwest Virginia 208 Planning Area
Secondary Action: VAC Chapter Number and Regulation Title	9 VAC 25-520 Water Quality Management Plan for the First Tennessee-Virginia Development District
Secondary Action: VAC Chapter Number and Regulation Title	9 VAC 25-572-100 - 120 Metropolitan/Regional Water Quality Management Plan for Cumberland Plateau Planning District
Secondary Action: VAC Chapter Number and Regulation Title	9 VAC 25-572-130 - 150 Metropolitan/Regional Water Quality Management Plan for Lenowisco Planning District
Secondary Action: VAC Chapter Number and Regulation Title	9 VAC 25-572-190 - 210 Metropolitan/Regional Water Quality Management Plan for Mount Rogers Planning District
Date:	March 16, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of this action is to repeal the Tennessee and Big Sandy River Basins Water Quality Management Plan and several other plans (208 plans and metropolitan/regional water quality management plans) which cover the same area. Water quality management plans identify water quality problems, consider alternative solutions and recommend pollution control measures needed to attain or maintain water quality standards. These plans are a required element of Virginia's water quality management program. However, there is no requirement that the plans be regulations.

The other plans to be repealed are: 9 VAC 25-510-10 et seq. Water Quality Management Plan for the Southwest Virginia 208 Planning Area, 9 VAC 25-520-10 et seq. Water Quality Management Plan for the First Tennessee-Virginia Development District, 9 VAC 25-572-100 - 120 Metropolitan/Regional Water Quality Management Plan for Cumberland Plateau Planning District, 9 VAC 25-572-130 - 150 Metropolitan/Regional Water Quality Management Plan for Lenowisco Planning District and 9 VAC 25-572-190 - 210 Metropolitan/Regional Water Quality Management Plan for Mount Rogers Planning District.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Section 62.1-44.15(13) of the Code of Virginia authorizes the State Water Control Board to establish policies and programs for effective area-wide and basin-wide water quality control and management. The Code also authorizes the Board to develop pollution abatement and water quality control plans.

Section 303(e) of the Clean Water Act, as implemented by 40 CFR 130, requires that water quality management plans be developed. Federal law and regulation does not require that the plans be adopted as regulation.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Tennessee and Big Sandy River Basins Water Quality Management Plan, along with several other plans, would be repealed under this proposal. However, there would be essentially no change since the Department, on behalf of the Board, has developed an updated plan for the basins. The plan was developed in conjunction with an advisory committee and the plan will

be presented to the public for comment concurrently with the proposed repeals and to the Board for approval concurrently with the repeal. The new plan imposes no requirements on the public and would not be adopted as a regulation.

The repeal of these plans is essential to protect the health, safety or welfare of the citizens of the Commonwealth by allowing for timely updates to the plan based on new information and more sophisticated methods of analysis.

Need

Please provide a brief explanation of the need for and the goals of the new or amended regulation.

Repeal of the existing water quality management plans will simplify the processing of Virginia Pollutant Discharge Elimination System (VPDES) permits resulting in more efficient utilization of the resources of the Department.

The Clean Water Act requires that VPDES permits be consistent with the applicable water quality management plans. The plans, however, also allow for revisions in permit requirements as a result of availability of more data and more sophisticated methods analyses. Application of newer methods coupled with more data usually results in permit limitations that are different from those listed in the plans. Consequently, the plans would require amendment in order for the permit to be legal. By repealing the plans, limitations in a permit could be changed through the permit process unless the limitation would exceed a TMDL. Since TMDLs will still be a regulation, permit limits which would exceed the TMDL would still have to be processed as a regulation change.

Alternatives

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives to the proposal that have been considered and will be considered to meet the need, and the reasoning by which the agency has rejected any of the alternatives considered.

In compliance with the State Water Control Board's Public Participation Guidelines, the Department will, during the Notice of Intended Regulatory Act and the Notice of Public Comment, include the alternatives presented below, and request comments on these and any other alternatives. The Department will also request comments on the costs and benefits of these alternatives or other alternatives the public may wish to provide.

One alternative to repealing the water quality management plans is to do nothing and amend the plans as needed to accommodate changes in the VPDES permits. Another alternative is to update each individual plan and maintain them as regulations. At this time neither of the

above alternatives is recommended due to the length of time required to process amendments to the regulations. With one exception, the material in the plans is informational and imposes no requirements on anyone. That exception, TMDLs, will be developed separately from the plans and adopted as a regulation allowing the plans to be updated in a timely fashion.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Department has considered the impact of this proposal on family formation, stability and autonomy. The repeal of the existing water quality management plans will have an indirect positive impact on families in that water quality will still be maintained, but with less expenditures of the public's and government's resources.

Public Participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.

The Board is seeking comments on the intended regulatory action, including ideas to assist in the development of proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations.

Ad Hoc Advisory Group

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board seeks comment on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering an interest in working with the Board to assist in the drafting and formation of any proposal. The primary

function of any group, committee or individuals that may be utilized is to develop recommendations for Board consideration through a collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted using the same procedures as those used for submitting written comments pursuant to this notice.